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September 13, 2012

By Electronic Filing

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Attn: Media Bureau

**Re: Enforcement Complaint of Post-Newsweek Stations, Houston,
Inc., MB Docket No. 12-222, CSR-8694-C
Response to Surreply of TVMax**

Dear Ms. Dortch:

Pursuant to Section 76.7(d) of the Commission's rules,¹ Post-Newsweek Stations, Houston, Inc. ("Post-Newsweek") respectfully requests leave to file this Response to the "Surreply of TV Max to Reply of Post-Newsweek Stations, Houston, Inc. to the Answer of TV Max," dated August 31, 2012.²

TVMax's out-of-cycle Surreply raises new matter that requires a response from Post-Newsweek. Specifically, TVMax states that "TV Max has requested and has scheduled good faith retransmission consent negotiations with Post-Newsweek with regard to station KPRC-TV,

¹ 47 C.F.R. § 76.7(d).

² Surreply of TV Max to Reply of Post-Newsweek Stations, Houston, Inc. to the Answer of TV Max, MB Docket No. 12-222 (August 31, 2012) ("TVMax Surreply"). Post-Newsweek notes that, pursuant to Section 76.7(d) of the Commission's rules, TVMax was required to seek leave to file its Surreply. In addition, Post-Newsweek notes that, although TVMax's Certificate of Service indicated that TVMax served the Surreply on Post-Newsweek's counsel on August 31, 2012 by registered U.S. mail, overnight delivery, return receipt requested, Post-Newsweek's counsel did not receive the document until September 7, 2012 (and apparently no signature for the return receipt was requested upon delivery).

and expects to resolve all outstanding issues concerning that station's signals as expeditiously as possible."³

TVMax's implicit suggestion in bringing up the anticipated retransmission consent negotiations is that the Commission should defer its decision on Post-Newsweek's complaint. Post-Newsweek emphatically disagrees with that suggestion. A cable operator who engages in unauthorized retransmission does not receive immunity for its violations simply by entering into a new retransmission consent agreement.⁴

Post-Newsweek asks the Commission to move expeditiously to grant Post-Newsweek the relief it has requested: an order requiring TVMax to cease its unauthorized retransmission of KPRC's signal immediately and imposing such sanctions on TVMax as the Commission deems appropriate.

Respectfully submitted,

POST-NEWSWEEK STATIONS, HOUSTON, INC.

By: 

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September 13, 2012

³ TVMax Surreply at 5.

⁴ For instance, in the *Bailey Cable* cases the Media Bureau proposed, and later imposed, forfeitures against a cable operator who retransmitted the signals of two broadcast stations without authorization for just over a month. *Bailey Cable TV Inc.*, Notice of Apparent Liability for Forfeiture, 27 FCC Rcd 2625, 2625-26 (MB 2012) (unauthorized retransmission between Jan. 1 and Feb. 3, 2012), *forfeiture imposed* 27 FCC Rcd 7473 (MB 2012); *Bailey Cable TV Inc.*, Notice of Apparent Liability for Forfeiture, 27 FCC Rcd 2631, 2631-32 (MB 2012) (same), *forfeiture imposed* 27 FCC Rcd 7470 (MB 2012). The Bureau issued Notices of Apparent Liability even though the cable operator and the affected stations reached new retransmission consent agreements more than a month before the Bureau issued the NALs.

CERTIFICATE OF SERVICE

I, Michael Beder, an associate with the law firm of Covington & Burling LLP, certify that on this 13th day of September, 2012, I caused copies of the foregoing "Response to Surreply of TVMax" to be served by e-mail (or by certified U.S. mail, return receipt requested, where indicated) on the following:

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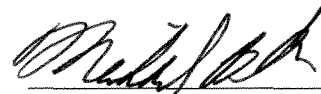
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